



Attorney's Docket No. 4576P001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application for:

Steven R. Mitchell

Serial No. 09/528,466

Filed: March 17, 2000

For: A PURCHASE COORDINATOR FOR
ELECTRONIC COMMERCE

Examiner: Robert M. Pond

Art Unit: 3625

APPEAL BRIEF

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

Applicant, (hereinafter "Appellant") submits, in triplicate, the following Appeal Brief pursuant to 37 C.F.R. § 1.192 for consideration by the Board of Patent Appeals and Interferences. Appellant also submits herewith a check in the amount of \$165.00 to cover the cost of filing the opening brief as required by 37 C.F.R. § 1.17(f). Please charge any additional amount due or credit any overpayment to deposit Account No. 02-2666.

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I. REAL PARTY IN INTEREST

Steven R. Mitchell, the party named in the caption is the real party in interest.

II. RELATED APPEALS AND INTERFERENCES

There are no other appeals or interferences that will directly affect or be directly affected by or have a bearing on the Board's decision in this Appeal.

III. STATUS OF CLAIMS

Claims 1-53 are pending in the application. The Examiner has rejected claims 1-53. Appellant appeals the rejection of claims 1-53.

IV. STATUS OF AMENDMENTS

No amendments were submitted after the Final Office Action mailed January 28, 2003.

V. SUMMARY OF THE INVENTION

The embodiments of the invention provide an apparatus and method for doing business on the Internet in which the retailer, distributor and manufacturer all profit from the sale of goods produced by the manufacturer. Page 5, lines 2-4. A manufacturer displays its product line on its website, but does not directly offer its goods for sale. Page 5, lines 9-10. When a consumer visits the website of the manufacturer and decides to make a purchase, the consumer may be directed to specify the geographic location from where the purchase may originate. Page 5, lines 11-13.

After a consumer specifies the location, the consumer may be automatically directed to a virtual storefront of a retailer that is geographically close to the purchaser. Page 5, lines 14-15. The

virtual storefront of the retailer may be created by a purchase coordinator company or by the manufacturer such that the retailer may pay either the manufacturer or the coordinator company a fee for creating or hosting the virtual storefront. Page 5, lines 20-23.

After a consumer places an order, a purchase coordinator system may select an appropriate distributor to fill the order. Page 8, lines 15-16. The distributor may then ship the ordered goods to the purchaser or a retailer. Page 8, line 17. Upon a distributor shipping an order, the purchase coordinator system automatically debits the total value of the order against the credit card account of the purchaser. Page 9, lines 19-21. The purchase coordinator system may contemporaneously credit a retailer, distributor and manufacturer appropriate portions of the total value of a purchase. Page 9, lines 21-23.

The purchase coordinator system may also be used to coordinate the product stock levels between distributors and manufacturers. Page 9, lines 7-8. As the inventory levels of a manufacturer's goods decrease, the manufacturer may monitor these levels using the purchase coordinator system and automatically send a shipment of goods to the distributor. Page 9, lines 7-13.

VI. ISSUES

The issues involved in this Appeal are as follows:

- A. Are claims 1-53 directed to non-statutory subject matter as defined by 35 U.S.C. §101.
- B. Are claims 1, 2, 8-9, 11-13, 16-18, 25, 26, 28-30, 33-35, 39-42, 46, 47, 49, 51 and 52 unpatentable under 35 U.S.C. §102(b) by being anticipated by U.S. Patent No. 6,263,317 issued to Sharp et al (“Sharp”)?
- C. Are claims 3-7, 19-24, 36-38 and 43-45 unpatentable under 35 U.S.C. §103(a) by being obvious over Sharp in view of Official Notice?
- D. Are claims 10, 27 and 48 unpatentable under 35 U.S.C. §103(a) by being obvious over Sharp in view of U.S. Patent No. 6,058,373 issued to Blinn et al (“Blinn”)?

E. Are claims 14 and 31 unpatentable under 35 U.S.C. §103(a) for being obvious over Sharp in view of Applicant Admission?

F. Are claims 15, 32 and 50 unpatentable under 35 U.S.C. §103(a) for being obvious over Sharp in view of U.S. Patent No. 5,991,740 issued to Messer ("Messer")?

G. Is claim 53 unpatentable under 35 U.S.C. §103(a) for being obvious over Sharp in view of Messer and in further view of Applicant Admission?

VII. GROUPING OF CLAIMS

All of the claims do not stand or fall together. Rather, Appellant contends that the claims can be divided into the following groups and each group is separately patentable:

Group I - Claims 1, 2, 8, 9, 11-13, 16-18, 25, 26, 28-30, 33-35, 39-42, 46, 47, 49, 51 and 52

Group II Claims 3-7, 19-24, 36-38 and 43-45

Group III Claims 10, 27 and 48

Group IV Claims 14 and 31

Group V Claims 15, 32 and 50

Group VI Claim 53

The basis for the separate patentability of the groups is set forth below.

VIII. ARGUMENT

The Examiner has rejected claims 1-53 under 35 U.S.C. § 101 as being directed to non-statutory subject matter, claims 1, 2, 8, 9, 11-13, 16-18, 25, 26, 28-30, 33-35, 39-42, 46, 47, 49, 51 and 52 as unpatentable under 35 U.S.C. §102(e) over Sharp (U.S. Patent No. 6,263,317), claims 3-7, 19-24, 36-38 and 43-45 as unpatentable under 35 U.S.C. §103(a) in view of Sharp and Official Notice, claims 10, 27 and 48 as unpatentable under 35 U.S.C. §103(a) over Sharp in view of Blinn (U.S. Patent No. 6,058,373), claims 14 and 31 as unpatentable under 35 U.S.C. §103(a) over Sharp in view of Applicant Admission, claims 15, 32 and 50 as unpatentable under 35 U.S.C. §103(a) over Sharp in view of Messer (U.S.

Patent No. 5,991,740) and claim 53 over Sharp in view of Messer and further in view of Applicant Admission.

A. Rejection of Groups Groups I-VI Under 35 U.S.C. § 101

The claims of Groups I-VI stand rejected as being drawn to non-statutory subject matter because they are alleged by the Examiner to be “directed to a process that does nothing more than manipulate an abstract idea.” Paper No. 14, page 6. However, the Examiner admitted in Paper No. 5, that the claims, which remain in substantially the same form, met the requirements of 35 U.S.C. § 101 and removed a prior rejection based on non-statutory subject matter. See Paper No. 5, page 4. The Examiner did not provide any explanation as to why his opinion had changed or why the previously submitted arguments were no longer persuasive.

The Examiner has the burden of establishing a *prima facie* rejection under the 35 U.S.C. § 101. Specifically, the Examiner must establish that the claimed invention as a whole is *solely* directed to the manipulation of an abstract idea. The Examiner has not met this burden. In fact, the Examiner has failed to follow Patent Office guidelines for rejecting claims based on 35 U.S.C. § 101.

MPEP § 2106 (specifically A. and B. on pages 2100-6 and 2100-7) describes the process for analyzing claims, in light of court precedents, in regard to determining if claims are drawn to statutory subject matter. This section of the MPEP sets a low threshold for patentability of a claim under 35 U.S.C. § 101 by stating that “[o]nly when a claim is devoid of any limitation to a practical application in the technical arts should it be rejected under 35 U.S.C. § 101.” Further, the Patent Office requires that “when such a rejection is made, Office personnel must expressly state how the language of the claims has been interpreted to support the rejection.” MPEP § 2106, page 2100-7.

The Examiner has not provided any support for his assertion that claims 1-53 are unpatentable under 35 U.S.C. § 101. Rather, the Examiner has only cited language from court cases that describe the general standard required for patentability under 35 U.S.C. § 101. See Paper No. 14, page 6. The Examiner has not provided an interpretation of the claims or an

explanation of how each of the limitation of the claims fails to state a limitation that has a practical application in the technical arts. Thus, the Examiner has failed to establish a *prima facie* case of unpatentability under 35 U.S.C. § 101 according to Patent Office guidelines laid out in MPEP § 2601.

In addition, Appellant believes that claims 1-53 meet the requirements for statutory subject matter by describing a process having a “concrete, tangible and useful result” according to the standard for statutory subject matter established by *State Street Bank & Trust Co. v. Signature Financial*, 149 F.3d 1368 at 1373 (Fed. Cir. 1998). In *State Street* the Federal Circuit expressly held that “the transformation of data, representing discrete dollar amounts, … into a final share price, constitutes a practical application” and that this final share price is a “useful, concrete and tangible result.” See *State Street Bank & Trust Co. v. Signature Financial*, 149 F.3d at 1373. The subject matter of the claims in the instant Application includes the elements of “processing a monetary transaction for the order such that the manufacturers of the goods in the order and one of the plurality of retailers are each credited with a sum representing their portion of a total value of the order according to the price data” or a similar processing of a monetary transaction to produce a sum to be credited. See, for example, claim 1, lines 5-7. Thus, as in *State Street*, the claims of the present Application recite a process where discrete dollar amounts are processed to generate a useful, concrete and tangible result, in this case a credited sum. Therefore, claims 1-53 are drawn to statutory subject matter as defined by *State Street*.

For the reasons set forth above, Appellant submits that the Examiner has failed to establish a *prima facie* case for a rejection of claim 1-53 under 35 U.S.C. § 101 and that claims 1-53 meet the standard for statutory subject matter set for in *State Street*. Accordingly, it is requested that the non-statutory subject matter rejection of Groups I-VI be overturned.

B. Issues Common to the Rejection of Groups I-VI Under 35 U.S.C §§ 102 and 103

Each of claims 1-53 in Groups I-VI stands rejected under 35 U.S.C. §§ 102 and 103 over U.S. Patent No. 6,263,317 issued to Sharpe et al (hereinafter “Sharpe”) either alone or in

combination as the primary reference with other references. Appellant submitted a Declaration ("Present Declaration") pursuant to 37 C.F.R. § 1.131 on September 30, 2003 along with a Supplemental Response to the Final Office Action. The Examiner, in Paper No. 14, refused to accept the Present Declaration based on its merits. Appellant believes the Present Declaration clearly sets forth that the Appellant conceived of the invention prior to the filing date of Sharpe and practiced due diligence in reducing the invention to practice from the filing date of Sharpe to the constructive reduction to practice by the filing of the instant Application.

The Present Declaration was accompanied by a number of substantiating documents. Documents labeled as Documents A-C along with paragraph 5 of the Present Declaration established that the conception of the invention and initial work on the invention by the Appellant occurred prior to the filing date of Sharpe. The Examiner consistently applied inappropriate standards for reviewing the Present Declaration and its substantiating documents as explained at length below. Also, the Examiner rejected the Present Declaration based on the alleged insufficiency of a document for use as a substantiating document that is not a part of the Present Declaration and its substantiating documents or relied on by the Present Declaration as a substantiating document. Rather, this document was a document previously submitted with a previous Declaration ("Prior Declaration") on June 17, 2003. See Page 3, first bullet point, Paper No. 14. Clearly, these are inappropriate grounds on which to reject the Present Declaration. The Present Declaration submitted on September 30, 2003 does not rely on previously submitted declarations, including the Prior Declaration. The sufficiency of declarations and their documents submitted prior to September 30, 2003 are not relevant to the Present Declaration.

The Appellant submitted the Present Declaration setting forth that the Appellant conceived of the claimed invention and was diligent in reducing the invention to the constructive reduction to practice by the filing of the instant application. The Present Declaration was supported by substantiating Documents A-M. Appellant notes that there was no Document I. In regard to Documents A-C, these documents substantiate the statement in

paragraph 5 of the Present Declaration that establishes the conception of the invention and initial diligence by the Appellant prior to the date of Sharpe. The Examiner admits that Document A is a “detailed flowchart” of the invention and fails to explain how Documents A-C are deficient in establishing conception. Instead, the Examiner misconstrues the language of 37 C.F.R. § 1.131(b) and rejects Documents A-C because they had not been previously submitted. See page 4 of Paper No. 14.

37 C.F.R. § 1.131(b) sets forth some of the requirements of a Declaration including that “Original exhibits of drawings or records, or photocopies thereof, must accompany and form part of the affidavit or declaration, *or their absence satisfactorily explained.*” (emphasis added). This language clearly requires that a given declaration must be accompanied by supporting documents or if the documents are not submitted therewith that this absence be explained. Stated differently, if a declaration relies on information from documents that do not accompany the declaration or if the declaration has no accompanying documents then an explanation of this absence is required. This language does not require that an explanation be provided when documents are used to support one declaration and not another declaration. The clear intent of this section of 37 C.F.R. 1.131(b) is to require that assertions in a declaration be substantiated by documentation or an explanation be given as to why documentation is unavailable. This is not a requirement that all available documentation be provided as is implied by the Examiner's interpretation.

In the present case, the Prior Declaration was submitted which did not rely on or include Documents A-C of the Present Declaration. The Prior Declaration and its accompanying documents are of no relevance to the requirements of 37 C.F.R. § 1.131(b) as it applies to the Present Declaration. The Present Declaration relies on Documents A-C which accompanied the Present Declaration at the time of its filing thereby meeting this requirement of 37 C.F.R. § 1.131(b). This misinterpretation of 37 C.F.R. § 1.131(b), for which the Examiner provides no explanation or authority, is the only ground upon which the Examiner

finds that the Present Declaration was insufficient to establish conception of the claimed invention prior to the date of Sharpe.

In regard to the establishment of diligence in reduction to practice, the Appellant provided paragraphs 6-8 and substantiating Documents D-M (omitting I). Document D substantiated a date prior to the date of the reference as a time when the invention was being diligently worked upon. The Examiner rejected Document D based on the same erroneous interpretation of 37 C.F.R. § 1.131(b) as discussed above in regard to Documents A-C.

The Examiner cryptically rejected supporting Documents E, F, G, L and M because they "fail to establish a nexus with the claimed invention." See page 5, Paper No. 14. The Examiner provides no authority supporting an analysis of the document requiring a "nexus" on which to base his rejection. These Documents are clearly described and contextualized in paragraphs 7-8 of the Declaration to demonstrate the diligence of Appellant in constructively reducing the invention to practice. (Appellant notes a typographical error in the Present Declaration results in two paragraphs labeled as 7 in the Present Declaration).

The Examiner mischaracterizes the statement of facts in the Present Declaration related to diligence from January 5, 1999 through October 1, 1999 as being a disruption of diligence. Rather, the statement of facts in the Present Declaration regarding this time period and its supporting Documents demonstrate that diligence in this time period took the form of pursuing litigation and similar legal action to further the reduction to practice of the invention.

The Examiner states that a gap in diligence occurs between October 1, 1999 and March 17, 2000. The Examiner ignores the clear statements of fact in the Present Declaration and its accompanying Documents that state that work on the invention continued on table schema documents from June 1999 to January 2000 and that work on the patent application that constructively reduced the invention to practice began at least as early as January 2000 and continued to the filing date of March 17, 2000. Thus, the Present Declaration sets forth facts with substantiating Documents that establish diligence during this time period.

The Appellant sets forth in the Present Declaration statements of fact along with substantiating documentation establishing the time of conception prior to the date of Sharpe and diligence from the before the date of Sharpe until constructive reduction to practice. The Examiner has rejected this Declaration based on erroneous interpretations of 37 C.F.R. § 1.131(b), cryptic statements regarding a missing "nexus" without any citation to authority or explanation and an inaccurate understanding of the facts set forth in the Declaration and supported by the accompanying Documents. Therefore, the Examiner has improperly maintained the rejection of claims 1-53 based on Sharpe by refusing to remove Sharpe as a reference based on the Present Declaration submitted September 30, 2003.

C. Rejection of Group I Under 35 U.S.C § 102 as Anticipated by Sharpe

In regard to claims 1, 2, 8, 9, 11-13, 16-18, 25, 26, 28-30, 33-35, 39-42, 46, 47, 49, 51 and 52, these claims are rejected solely over Sharpe. For the reasons set forth above, Appellant believes that the Examiner has improperly relied upon Sharpe and improperly refused to remove Sharpe as a prior art reference based on the Declaration pursuant to 37 C.F.R. § 1.131 submitted on September 30, 2003. Therefore, the Examiner has failed to establish that these claims are anticipated. Thus, Group I is separately patentable over Sharpe. Accordingly, it is requested that the anticipation rejection of Group I be overturned.

D. Rejection of Group II Under 35 U.S.C § 103(a) as Obvious over Sharp, in View of Official Notice

In regard to claims 3-7, 19-24, 36-38 and 43-45, the Examiner has based his obviousness rejection of these claims primarily on Sharpe. For the reasons set forth above, Appellant believes that the Examiner has improperly relied upon Sharpe and improperly refused to remove Sharpe as a prior art reference based on the Declaration pursuant to 37 C.F.R. § 1.131 submitted on September 30, 2003.

Further, Appellant has attempted to overcome this rejection, which is based on a combination of Sharpe and Official Notice, by removing Sharpe as a prior art reference in each response submitted to the Patent Office since the time the Official Notice was first taken in Paper No. 2. Appellant believes that removing Sharpe as a reference inherently traverses the Official Notice, because the Official Notice is used to modify Sharpe and where Sharpe is the evidentiary support for the Official Notice in the record. “It is never appropriate to rely solely on ‘common knowledge’ in the art without evidentiary support in the record.” *In Re Zurko*, 258 F. 3d 1379 (Fed. Cir. 2001). Removing Sharpe as a reference forces the Examiner to find another ground or a different reference on which to reject these claims. The Examiner’s Official Notice cannot be the sole basis for the rejection. Therefore, removing Sharpe as a prior art reference traverses the Official Notice by removing the evidentiary support for this Official Notice. Thus, Appellant believes that Sharpe is an improper prior art reference based on the Declaration pursuant to 37 C.F.R. § 1.131 submitted on September 30, 2003 and consequently, the statement by the Examiner that the Appellant failed to traverse the Official Notice taken by the Examiner is improper. Group II is separately patentable because the claims in Group II are rejected on separate grounds from the other Groups. Accordingly, Appellant believes Group II is separately patentable and requests that the obviousness rejection of Group II be overturned.

E. Rejection of Groups III-VI Under 35 U.S.C § 103

In regard to the claims of Groups III-VI, these claims are rejected as obvious over Sharpe, as a primary reference, in some combination with Blinn, Messer or what the Examiner asserts is Applicant Admission. Thus, at least for the reasons mentioned above regarding the Declaration pursuant to 37 C.F.R. § 1.131 submitted on September 30, 2003, Sharpe is not a proper prior art reference on which to base an obviousness rejection. The Examiner has not provided any indication or argument that Blinn, Messer or Applicant Admission teach or suggest each of the elements of the respective claims they are used in conjunction with Sharpe to reject. Thus, Appellant believes that without Sharpe the Examiner has failed to establish a *prima facie* case of obviousness for the claims of Groups III-VI. The claims in Groups III-VI are each rejected on

separate grounds based on combinations of Blinn, Messer and Applicant Admission with Sharpe. Therefore, each of Groups III-VI are separately patentable. Accordingly, Appellant believes Groups III are each separately patentable and requests that the obviousness rejections of Groups III-VI be overturned.

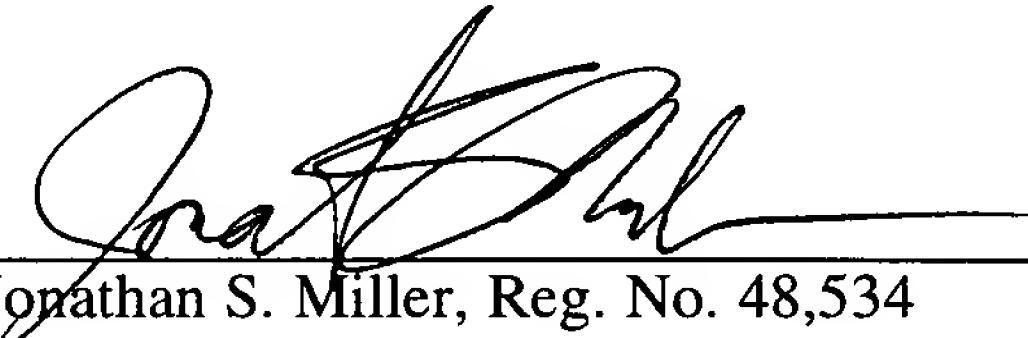
IX. CONCLUSION AND RELIEF

Accordingly, it is submitted that the rejections of Groups I-VI based on 35 U.S.C. §§ 101, 102 and 103 be overturned.

Respectfully submitted,

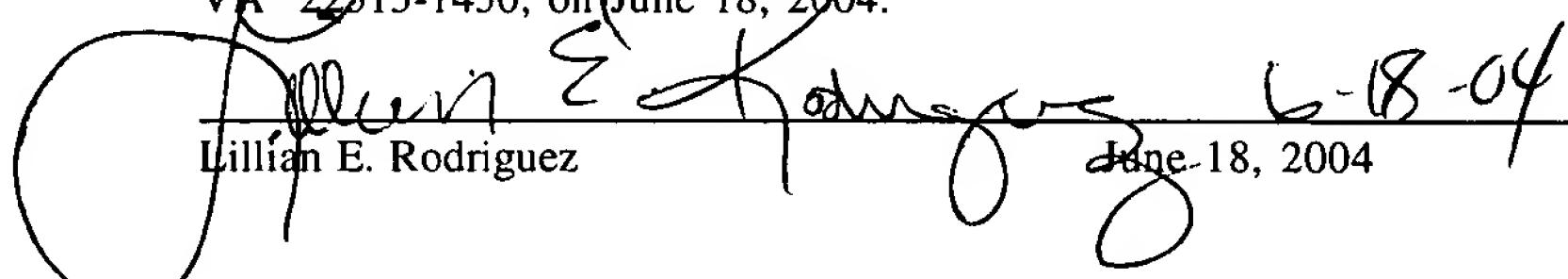
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN

Dated: 6/18, 2004


Jonathan S. Miller, Reg. No. 48,534

CERTIFICATE OF MAILING:

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Virginia, VA 22313-1450, on June 18, 2004.


Lillian E. Rodriguez

June 18, 2004

X. APPENDIX

The claims involved in this Appeal are as follows:

1. (Previously presented) A method comprising:
obtaining price data from each of a plurality of retailers and at least one manufacturer for a plurality of goods;
receiving an order for at least one of the plurality of goods;
processing a monetary transaction for the order such that the manufacturers of the goods in the order and one of the plurality of retailers are each credited with a sum representing their portion of a total value of the order according to the price data.
2. (Original) The method of Claim 1 further comprising:
selecting one of a plurality of manufacturer warehouses to fill the order.
3. (Original) The method of Claim 1 wherein obtaining price data comprises:
obtaining a manufacturer cost for goods supplied by the manufacturer; and
obtaining from the retailers a retailer profit data for the goods the retailer sells.
4. (Previously presented) The method of Claim 3 further comprising:
establishing the retailer profit data as either a percentage above the manufacturer cost, or a specified sum.
5. (Previously presented) The method of Claim 3 further comprising:
varying the retailer profit data among the goods sold by the retailer.
6. (Previously presented) The method of Claim 3 further comprising:
establishing the retailer profit data as the same for each of the goods sold by the retailer.
7. (Previously presented) The method of Claim 3 further comprising:

determining a retail price of the plurality of goods by using the manufacturer cost and the retailer profit data for the good.

8. (Previously presented) The method of Claim 1 further comprising:
receiving the order from either a consumer or one of the plurality of retailers.
9. (Original) The method of Claim 2 wherein selecting one of a plurality of manufacturer warehouses comprises:
identifying one manufacturer warehouse capable of filling the order such that the manufacturer warehouse is geographically closest to either a customer or a customer selected retailer.
10. (Original) The method of Claim 9 wherein selecting one of a plurality of manufacturer warehouses further comprises:
identifying one manufacturer warehouse that is in the same country as the customer.
11. (Original) The method of Claim 1 further comprising:
debiting the total value of the order against a credit card account of the customer.
12. (Original) The method of Claim 11 wherein debiting the total value is performed after the order is shipped.
13. (Original) The method of Claim 12 wherein processing a monetary transaction is performed immediately after debiting the total value.
14. (Original) The method of Claim 1 wherein processing a monetary transaction is performed at a defined regular interval for multiple orders after the orders have shipped.
15. (Original) The method of Claim 1 wherein processing a monetary transaction comprises:
retaining a commission.

16. (Original) The method of Claim 1 further comprising:

obtaining goods-related data from each of the retailers and each of the manufacturers.

17. (Original) The method of Claim 16 wherein obtaining goods-related data comprises:

obtaining a product data and an inventory data from each of the manufacturers; and

obtaining a product line data from each of the retailers.

18. (Original) A method comprising:

obtaining price data from each of a plurality of retailers, a plurality of distributors, and at least one manufacturer for a plurality of goods;

receiving an order for at least one of the plurality of goods;

selecting one of the plurality of distributors to fill the order;

processing a monetary transaction for the order such that the distributor selected to fill the order, one of the plurality of retailers, and the manufacturers of the goods in the order are each credited with a sum representing their portion of a total value of the order according to the price data.

19. (Original) The method of Claim 18 wherein obtaining price data comprises:

obtaining a manufacturer cost for goods supplied by the manufacturer;

obtaining from each of the distributors a distributor profit data for the goods the distributor distributes; and

obtaining from the retailers a retailer profit data for the goods the retailer sells.

20. (Previously presented) The method of Claim 19 further comprising:

establishing distributor profit data as either a percentage above the manufacturer cost or a specified sum; and

establishing retailer profit data as either a percentage above the sum of the manufacturer cost and the distributor profit data, or a specified sum.

21. (Previously presented) The method of Claim 20 further comprising:
varying distributor profit data among the goods distributed by the distributor; and
varying retailer profit data among the goods sold by the retailer.
22. (Previously presented) The method of Claim 20 further comprising:
establishing distributor profit data as the same for each of the goods distributed by the distributor; and
establishing retailer profit data as the same for each of the goods sold by the retailer.
23. (Previously presented) The method of Claim 20 further comprising:
determining a retail price of the plurality of goods using by the manufacturer cost, the distributor profit data, and the retailer profit data for the good.
24. (Previously presented) The method of Claim 20 further comprising:
providing the goods using two or more levels of distributors but only the selected distributor fills the order;
determining a retail price of the plurality of goods by using the manufacturer cost, the distributor profit data for each of the participating distributors, and the retailer profit data for the good; and
wherein processing a monetary transaction further comprises:
crediting all distributors who participated in providing the goods a sum representing their portion of the total value of the order.
25. (Previously presented) The method of Claim 18 further comprising:
receiving the order from either a consumer or one of the plurality of retailers.
26. (Original) The method of Claim 18 wherein selecting a distributor comprises:
identifying one distributor capable of filling the order such that the distributor is geographically closest to either a customer or a customer selected retailer.

27. (Original) The method of Claim 26 wherein selecting a distributor further comprises:

identifying one distributor that is in the same country as the customer.

28. (Original) The method of Claim 18 further comprising:

debiting the total value of the order against a credit card account of the customer.

29. (Original) The method of Claim 28 wherein debiting the total value is performed after the order is shipped.

30. (Original) The method of Claim 28 wherein processing a monetary transaction is performed immediately after debiting the total value.

31. (Original) The method of Claim 18 wherein processing a monetary transaction is performed at a defined regular interval for multiple orders after the orders have shipped.

32. (Original) The method of Claim 18 wherein processing a monetary transaction comprises:

retaining a commission.

33. (Original) The method of Claim 18 further comprising:

obtaining goods-related data from each of the retailers, each of the distributors, and each of the manufacturers.

34. (Original) The method of Claim 33 wherein obtaining goods-related data comprises:

obtaining a product data from each of the manufacturers;

obtaining an inventory data from each of the distributors; and

obtaining a product line data from each of the retailers.

35. (Original) A method comprising:

obtaining price data from each of a plurality of retailers, a plurality of distributors, and a manufacturer for a plurality of goods;

receiving an order for at least one of the plurality of goods;
selecting one of the plurality of distributors to fill the order;
processing a monetary transaction for the order such that the distributor selected to fill the order, one of the plurality of retailers, and the manufacturer are each contemporaneously credited with a sum representing their portion of a total value of the order according to the price data.

36. (Original) The method of Claim 35 wherein obtaining price data comprises:
obtaining a manufacturer cost for the goods supplied by the manufacturer;
obtaining from each of the distributors a distributor profit data for the goods inventoried by the distributor; and
obtaining from each of the retailers a retailer profit data for the goods sold by the retailer.

37. (Previously presented) The method of Claim 35 further comprising:
establishing distributor profit data as either a percentage above the manufacturer cost or a specified sum; and
establishing retailer profit data as either a percentage above the sum of the manufacturer cost and the distributor profit data, or a specified sum.

38. (Previously presented) The method of Claim 36 determining a retail price of the plurality of goods by using the manufacturer cost, the distributor profit data, and the retailer profit data for the good.

39. (Previously presented) The method of Claim 35 wherein receiving an order comprises:

receiving an order from either a consumer or one of the plurality of retailers.

40. (Original) The method of Claim 35 wherein selecting a distributor comprises:
selecting one distributor capable of filling the order such that the distributor is geographically closest to a customer or a customer selected retailer.

41. (Original) The method of Claim 35 wherein processing a monetary transaction comprises:

debiting the total value of the order against a credit card account of a customer.

42. (Original) A machine readable medium having stored thereon instructions which when executed by a processor cause the machine to perform operations comprising:

obtaining price data from each of a plurality of retailers, a plurality of distributors, and at least one manufacturer for a plurality of goods;

receiving an order for at least one of the plurality of goods;

selecting one of the plurality of distributors to fill the order;

processing a monetary transaction for the order such that the distributor selected to fill the order, one of the plurality of retailers, and the manufacturers of the goods in the order are each contemporaneously credited with a sum representing their portion of a total value of the order according to the price data.

43. (Original) The machine readable medium of Claim 42 wherein obtaining price data causes the machine to perform operations comprising:

obtaining a manufacturer cost for goods supplied by each of the manufacturers;

obtaining from each of the distributors a distributor profit data for of the goods the distributor distributes; and

obtaining from each of the retailers a retailer profit data for the goods the retailer sells.

44. (Previously presented) The machine readable medium of Claim 42 further comprising:

establishing distributor profit data as either a percentage above the manufacturer cost or a specified sum; and

establishing retailer profit data as either a percentage above the sum of the manufacturer cost and the distributor profit data, or a specified sum.

45. (Previously presented) The machine readable medium of Claim 43 further comprising:

determining a retail price of the plurality of goods by using the manufacturer cost, the distributor profit data, and the retailer profit data for the good.

46. (Original) The machine readable medium of Claim 42 wherein receiving an order causes the machine to perform operations comprising:

receiving the order from either a consumer or one of the plurality of retailers.

47. (Original) The machine readable medium of Claim 42 wherein selecting a distributor causes the machine to perform operations comprising:

selecting one distributor capable of filling the order such that the distributor is geographically closest to either a customer or a customer selected retailer.

48. (Original) The machine readable medium of Claim 47 wherein selecting a distributor causes the machine to perform operations comprising:

selecting the one distributor that is in the same country as the customer.

49. (Original) The machine readable medium of Claim 42 wherein processing a monetary transaction causes the machine to perform operations comprising:

debiting the total value of the order against a credit card account of a customer.

50. (Original) The machine readable medium of Claim 42 wherein processing a monetary transaction causes the machine to perform operations comprising:

retaining a commission responsive to the total value of the order.

51. (Original) The machine readable medium of Claim 42 further causing the machine to perform operations comprising:

obtaining goods-related data from each of the retailers, each of the distributors, and each of the manufacturers.

52. (Original) The machine readable medium of Claim 51 wherein obtaining goods-related data causes the machine to perform operations comprising:

- obtaining a product data from each of the manufacturers;
- obtaining an inventory data from each of the distributors; and
- obtaining a product line data from each of the retailers.

53. (Original) A method comprising:

- obtaining product data and price data for a plurality of goods from each of a plurality of retailers, a plurality of distributors, and a plurality of manufacturers;
- receiving orders for some of the plurality of goods from a plurality of customers;
- obtaining credit card authorization for the orders;
- selecting one of the plurality of distributors to fill each of the orders;
- receiving an acknowledgement when each order ships;
- debiting the credit card accounts of the customers;
- crediting the distributors, the retailers, and the manufacturers at a defined time after orders have been shipped with a sum representing their portion of a total value of the orders shipped according to the price data; and
- retaining a commission for the orders.



AF/3625
JFW

TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

		Application No.	09/528,466
		Filing Date	March 17, 2000
		First Named Inventor	Steven R Mitchell
		Art Unit	3625
		Examiner Name	Robert M. Pond
Total Number of Pages in This Submission	71	Attorney Docket Number	4576P001

ENCLOSURES (check all that apply)

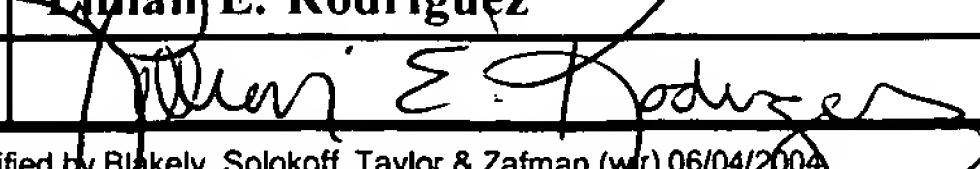
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<input checked="" type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences	
<input type="checkbox"/> Amendment / Response	<input type="checkbox"/> Petition	<input checked="" type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)	
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert a Provisional Application	<input type="checkbox"/> Proprietary Information	
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address	<input type="checkbox"/> Status Letter	
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Terminal Disclaimer	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):	
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Request for Refund	Check in the amount of \$165 Return Receipt Postcard	
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> CD, Number of CD(s)		
<input type="checkbox"/> PTO/SB/08			
<input type="checkbox"/> Certified Copy of Priority Document(s)			
<input type="checkbox"/> Response to Missing Parts/ Incomplete Application			
<input type="checkbox"/> Basic Filing Fee			
<input type="checkbox"/> Declaration/POA			
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53			
Remarks			

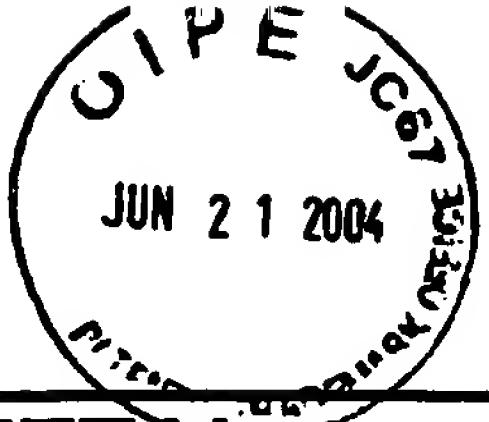
SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Jonathan S. Miller, Reg. No. 48,534 BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP
Signature	
Date	June 18, 2004

CERTIFICATE OF MAILING/TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Appeal Brief-Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

Typed or printed name	Lilian E. Rodriguez
Signature	
Date	June 18, 2004



FEE TRANSMITTAL for FY 2004

Effective 10/01/2004. Patent fees are subject to annual revision.

Applicant claims small entity status. See 37 CFR 1.27.

TOTAL AMOUNT OF PAYMENT (\$ 165.00)

Complete if Known	
Application Number	09/528,466
Filing Date	March 17, 2000
First Named Inventor	Steven R Mitchell
Examiner Name	Robert M. Pond
Art Unit	3625
Attorney Docket No.	4576P001

METHOD OF PAYMENT (check all that apply)

Check Credit card Money Order Other None

Deposit Account

Deposit Account Number **02-2666**

Deposit Account Name **Blakely, Sokoloff, Taylor & Zafman LLP**

The Commissioner is authorized to: (check all that apply)

Charge fee(s) indicated below Credit any overpayments
 Charge any additional fee(s) or underpayment of fees as required under 37 CFR/1.16, 1.17, 1.18 and 1.20.
 Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account

FEE CALCULATION

1. BASIC FILING FEE

Large Entity	Small Entity	Fee Description	Fee Paid		
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	
SUBTOTAL (1)		(\$)			

2. EXTRA CLAIM FEES

Total Claims	Independent Claims	Extra Claims	Fee from below	Fee Paid
53	5	53 ^{**}	= 0 x 9.00 = \$0.00	
		5 ^{**}	= 0 x 43.00 = \$0.00	
Multiple Dependent				

Large Entity		Small Entity		
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	18	2202	9	Claims in excess of 20
1201	86	2201	43	Independent claims in excess of 3
1203	290	2203	145	Multiple Dependent claim, if not paid
1204	86	2204	43	**Reissue independent claims over original patent
1205	18	2205	9	**Reissue claims in excess of 20 and over original patent
SUBTOTAL (2)		(\$)	0.00	

^{**}or number previously paid, if greater. For Reissues, see below

3. ADDITIONAL FEES

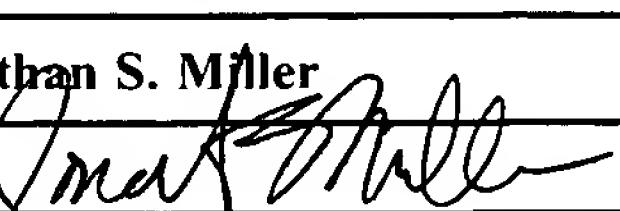
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Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet.	
2053	130	2053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for ex parte reexamination	
1804	920 *	1804	920 *	Requesting publication of SIR prior to Examiner action	
1805	1,840 *	1805	1,840 *	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1404	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	165.00
1403	290	2403	145	Request for oral hearing	
1451	1,510	2451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	2460	130	Petitions to the Commissioner	
1807	50	1807	50	Prosessing fee under 37 CFR 1.17(q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	1809	385	Filing a submission after final rejection (37 CFR/1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR/1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	
Other fee (specify)					

* Reduced by Basic Filing Fee Paid

SUBTOTAL (3)

(\$ 165.00)

SUBMITTED BY

Name (Print/Type)	Signature	Registration No. (Attorney/Agent)	Telephone	Complete (if applicable)
Jonathan S. Miller		48,534	(310) 207-3800	
Date		06/18/04		

Based on PTO/SB/17 (10-03) as modified by Blakely, Sokoloff, Taylor & Zafman (wir) 02/10/2004.
SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450